

### **REMARKS**

Claims 1-14 are pending in the application. Claims 11 and 12 have been amended. Claim 14 has been added. Claims 1, 8, and 14 are in independent form.

#### **Claim Objections**

Claims 12 and 13 are objected to under 37 C.F.R. §1.75(c), as being of improper dependant form for failing to further limit the subject matter of a previous claim. Specifically, claim 12 depends from claim 14 which is nonexistent and claim 13 depends from claim 12. In response, Applicant has amended claim 12 to depend from claim 11. Thus, the objection is moot.

#### **Claim Rejections – 35 U.S.C. §102**

Claims 8 and 9 stand rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent 6,113,051 to Moradell et al. ("the '051 reference"). Applicant respectfully traverses the rejection.

The '051 reference discloses a female section or track 1 and a male section or track 2. The female track 1 is generally U-shaped in section and includes two flanges 11, constituting two sidewalls, more or less vertical, and a horizontal bottom 19. The flanges 11 are prolonged at their upper edges by inner flange returns 12, facing towards the inside of the U and towards the bottom 19 of the female track 1. The longitudinal edges 13 of these flange returns 12 extend vertically, and a row of notches 14 is made on each of these edges 13. The male track 2 is also generally U-shaped in section and has two flanges 21 extending vertically downwards from a top 29. The flanges 21 are prolonged by outer flange returns 22, facing upwards and located, when the male 2 and female 1 tracks are assembled between the respective flanges 11 and flange returns 12 of the female track 1. Each outer flange return 22 is attached to the corresponding flange 21 by a folded portion 23 which extends more or less horizontally. A locking means 3 includes a plate 31 having a number of teeth 32 on each side. The plate 31 extends horizontally between the flanges 21 of the male track 2 and its teeth 32 engage in respective cutouts 25 made

in the male track 2. A part 25a of this cutout 25 is located in the folded portion 23 and another part 25b is located in the flange 21 of the male track 2. In a locked position, the teeth 32 mate with the notches 14 of the female track 1 and are located above the folded portion 23, and are therefore disengaged from the part 25a of the cutout 25 made in the folded portion 23. In an unlocked position, the teeth 32 are disengaged from the notches 14 but remain engaged with the cutouts 25.

Claim 8 of the above-captioned application claims a seat track assembly including a lower track (12) having an outer distal wall (24, 36), said outer distal wall (36) having a plurality of locking windows (74) formed therein; an upper track (14) slidably coupled to said lower track (12) for movement among a plurality of seating positions relative to said lower track (12), said upper track (14) including a wall (44) and a distal wall (60) spaced apart from said wall (44) for receiving said outer distal wall (36) of said lower track (12) therebetween during movement of said upper track (14) relative to said lower track (12), said wall (44) and said distal wall (60) each having corresponding pluralities of first (70) and second (72) support apertures; a locking mechanism (80) for selectively interlocking said upper (14) and lower (12) tracks, said locking mechanism (80) having a plurality of pins (88) selectively movable in and out of a locked position, wherein said plurality of pins (88) extends through said locking window (74) of said lower track (12) and is supported by said first (70) and second (72) support apertures of said upper track (14) in a double shearing condition to prevent sliding adjustment of said upper track (14) relative to said lower track (12).

Claim 8 includes the limitation, "said upper track including a wall and a distal wall spaced apart from said wall for receiving said outer distal wall of said lower track therebetween." The Examiner identifies the flange 11 of the female track 1 in the '051 reference as equivalent to the outer distal wall (36) of the lower track (12) in the above-captioned application. The Examiner also identifies the flanges 21 of the male track 2 in the '051 reference as equivalent to the wall (44) and the distal wall (60) of the upper track (14). **In the '051 reference, the flange 11 of the female track 1 is not disposed between the flanges 21 of the male track 2.** Rather, the flange 11 of the female track 1 is disposed between the flange 21 and the respective outer flange return 22 of the male track 2.

Claim 8 also includes the limitation, "said wall and said distal wall each having corresponding pluralities of first and second support apertures; a locking mechanism for selectively interlocking said upper and lower tracks, said locking mechanism having a plurality of pins selectively movable in and out of a locked position, wherein said plurality of pins extends through said locking window of said lower track and is supported by said first and second support apertures of said upper track." The Examiner identifies the cutouts 25 in the '051 reference as equivalent to the pluralities of first (70) and second (72) support apertures in the above-captioned application. In the '051 reference, the flange 11 of the female track 1 is disposed between the flange 21 and the respective outer flange return 22 of the male track 2. When the plate 31 is in the locked position the teeth 32 are engaged with the notches 14 of the female track 1 and the part 25b of the cutout 25. The teeth 32 do not engage the outer flange return 22. **In other words, the teeth 32 cannot extend through a locking window (notches 14) of the lower track (female track 1) and be supported by first support apertures (cutouts 25) and second support apertures (non-existent) of the upper track (male track 2) because the outer flange return 22 does not include second support apertures, as specifically required by claim 8.** As such, the '051 reference does not disclose each and every element of claim 8 and claim 8 is therefore allowable.

Claim 9 depends from claim 8 and, as such, is construed to incorporate by reference all of the limitations of the claim to which it refers, *see* 35 U.S.C. §112, fourth paragraph. Thus, claim 9 is allowable.

Therefore, Applicant respectfully requests that the rejection of claims 8 and 9 under 35 U.S.C. §102(b) as being anticipated by the '051 reference be withdrawn.

#### **Allowable Subject Matter**

Claims 1-7 are allowed.

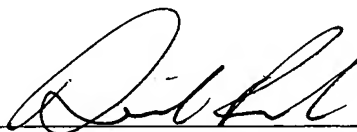
Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicant has added new independent claim 14

which includes all of the limitations of claim 10 and base claim 8. Thus, new independent claim 14 is allowable.

It is respectfully submitted that this patent application is in condition for allowance, which allowance is respectfully solicited. If the Examiner has any questions regarding this amendment or the patent application, the Examiner is invited to contact the undersigned.

The Commissioner is hereby authorized to charge any additional fee associated with this Communication to Deposit Account No. 50-1759. A duplicate of this form is attached.

Respectfully submitted,



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